

UNITED STATES DISTRICT COURT  
DISTRICT OF NEW JERSEY

UNITED STATES, et al.,

*Plaintiffs,*

v.

APPLE, INC.

*Defendant.*

**Civil Action No. 2-24-cv-04055  
(JXN) (LDW)**

**Plaintiffs' Notice of  
Supplemental Authority**

Plaintiffs respectfully attach the recent liability opinion after trial in *United States, et al. v. Google LLC*, No. 23-cv-108 (E.D. Va. Apr. 17, 2025), holding that Google violated Section 2 of the Sherman Act, as supplemental persuasive authority in opposition to Defendant's Motion to Dismiss. *See* App. A.

First, the *Google* court squarely rejected Google's "refusal to deal" arguments for many reasons that also apply here. *Id.* at 101-04. Like Apple, *see* ECF No. 86-1 at 11-19, Google claimed that its restrictions on *customers* (in Google's case, publishers) amounted to refusals to deal with rivals because the customers had competing products in some instances. The Court disagreed and held that Google's integration of its publisher ad server ("DFP") and its advertising exchange ("AdX") in ways that insulated each from competition violated Section 2 of the Sherman Act in both markets. App. A at 1, 97-101. Specifically:

- Through AdX's "technical and policy restrictions," Google made DFP "the only publisher ad server that could effectively access AdX." *Id.* at 91, 28-29, 28 n.16. This was not a refusal to deal with competing ad exchanges; instead, AdX crossed into the ad server market, "limiting Google's publisher customers' choice of publisher ad

server for reasons other than competition on the merits.” *Id.* at 103. It was irrelevant that other publisher ad servers compete with DFP.

- DFP’s conduct was a mirror image: through specific conduct, DFP reached into the ad exchange market and gave AdX an artificial advantage. *Id.* at 98-101. It was irrelevant that disadvantaged exchanges compete with AdX. *See id.* at 103-04.

Second, the opinion supports Plaintiffs’ position on Apple’s monopoly power. Plaintiffs here have adequately alleged Apple’s monopoly power through selective degradation of its products without fear of losing share. *See* ECF No. 106 at 16-17. In holding that Google possessed monopoly power, the court found that Google “placed limitations on AdX and adjacent products’ functionality” and “degrade[d] DFP’s features without fear that its customers would switch”—actions that are “difficult to explain unless Google had monopoly power.” App. A at 73, 81, 84 (quotation omitted).

Dated: April 21, 2025

Respectfully submitted,

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